

Before the
Federal Communications Commission
Washington, D.C. 20554

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In the Matter of)
Sprint Petition for Declaratory Ruling)
Obligations of Incumbent LECs to)
Load Numbering Resources Lawfully)
Acquired and to Honor Routing and)
Rating Points Designated by)
Interconnecting Carriers)

JUL 19 2002

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

CC Docket No. 01-92

**Comments of ALLTEL Communications, Inc.
in Support of Sprint Request for Declaratory Ruling**

ALLTEL Communications, Inc. ("ALLTEL")¹ supports Sprint Corporation's ("Sprint") above-captioned request for a declaratory ruling (the "Sprint Petition") to the effect that incumbent local exchange carriers ("ILECs") cannot refuse to either load numbers lawfully obtained by Commercial Mobile Services ("CMS") providers from rate centers located outside the ILEC service territory or to route traffic to and from those numbers in accord with the actual path of the call.² ALLTEL shares Sprint's urgings that the Commission immediately issue a ruling confirming the status and primacy of

¹ ALLTEL is the subsidiary of ALLTEL Corporation through which competitive telecommunications services, including CMS services, are provided. ALLTEL is affiliated with the ALLTEL local exchange companies by virtue of their common ownership and control by ALLTEL Corporation.

² The Sprint petition was filed on May 9, 2002 and was opposed by BellSouth Corporation and BellSouth Telecommunications, Inc. (jointly "BellSouth") on May 22, 2002.

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federal law and Commission regulation on these issues and, consequently, the unlawfulness of BellSouth's position.

Sprint seeks to affirm the right of CMS carriers to obtain NXX codes from any rate center within a particular MTA in which it both has facilities and provides service, and to have those numbers loaded and activated in the ILEC's tandem through which Sprint interconnects. As delineated in the Sprint Petition, this is a long-standing practice of CMS carriers and one that is fully consistent with Commission rule and precedent. It is now axiomatic that CMS carriers have the right to interconnect directly or indirectly with other telecommunications carriers through the ILEC of their choosing in accord with the ILEC's obligations under Section 251 of the Act.³ Further, under the Commission's interconnection orders, it is now similarly axiomatic that intra-MTA calls to and from a CMS carrier are local in nature and therefore terminated subject to reciprocal compensation arrangements and not access charges.⁴ This is the current status of the Commission's regulation, and it matters not whether the issue is referred to the pending intercarrier compensation proceeding⁵ inasmuch as Sprint seeks confirmation as to existing law and not the formulation of prospective rules. Nor can the Commission accept BellSouth's assertion of a lack of controversy and dismiss Sprint's petition on that

³ 47 IJSC Sec. 251(c) (1996). See Sprint Petition at pages 15-16 and citations therein.

⁴ See Sprint Petition at pages 15-16 and citations therein.

⁵ ALLTEL notes that Nextel and Triton PCS **raised similar issues in the proceeding on BellSouth's recently granted Section 271 application. In the Matter of Joint Application by BellSouth Telecommunications, Inc. and BellSouth Long Distance, Inc. for Provision of In-Region InterLATA Services in Georgia and Louisiana. CC Docket No. 02-35, FCC 02-147** (released May 15, 2002) at paras. 207-208. These issues were referred to the intercarrier compensation docket, but the issue under consideration there was the "virtual NXX" issue. As Sprint notes at page 13 of its petition, unlike the "virtual N X X situation, CMS carriers obtain codes where they actually have facilities and provide service.

basis⁶ for BellSouth, in its revised carrier notification letter, has never acknowledged the legitimacy of Sprint's grievance, and states only that it will not unilaterally refuse to load the codes but seek relief from the obligation to do so at the state level. Indeed, given the timing of BellSouth's revised policy and the release **of** the Commission's decision on BellSouth's Section 271 application, there is no guarantee in the absence of a Commission ruling that BellSouth will not regress to its previous position of refusing to load the codes.

BellSouth appears to believe that the CMS industry is to be burdened with each of the arcane incidents of the local exchange industry and has sought state relief to that end despite the primacy of federal regulation in the area'. It essentially argues that because a number is rightfully taken from a rate center served by a non-BellSouth ILEC that the non-BellSouth LEC must be involved in routing the **call**.⁸ But that argument belies the conventional call routing in CMS networks in which the MSO is interconnected (in accord with the CMS carriers rights) to the BellSouth tandem, and the call may never pass through the non-BellSouth ILEC's system. In short and in practice, the call, because it is a CMS call, should be routed as any other local, intra-MTA call. Admittedly, while intercarrier compensation issues may arise in this context, they may be adequately addressed under the current negotiation framework established by the Commission's regulations and in the absence **of** a refusal by the interconnecting ILEC to provide the

⁶ See, BellSouth Opposition at page 1

⁷ See Sprint Petition at pages 19-20

⁸ See Attachment 1 to BellSouth Opposition

originating and terminating carriers with appropriate meet point billing records.’ The approach advocated by BellSouth would ultimately permit it, by virtue of its power over an extended and ubiquitous local exchange territory, to force CMS carriers into costly and highly inefficient interconnection arrangements in contravention of both the Act and the rules -- and *that* is a matter which should be addressed and prevented in the intercarrier compensation rulemaking. The Commission should grant Sprint’s Petition and issue the requested ruling forthwith.

Respectfully submitted,
ALLTEL Communications. Inc.

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⁹ ALLTEL has been advised by BellSouth that it will not provide meet **point** billing data for the termination of traffic from other non-BellSouth carriers for calls made to **ALLTEL** CMS subscribers on numbers centered outside of BellSouth’s territory, even though the interconnection arrangements take the call through a BellSouth tandem.